

CHAPTER 30.1-13
VENUE FOR PROBATE AND ADMINISTRATION - PRIORITY TO ADMINISTER -
DEMAND FOR NOTICE

30.1-13-01. (3-201) Venue for first and subsequent estate proceedings - Location of property.

1. Venue for the first informal or formal testacy or appointment proceedings after a decedent's death is:
 - a. In the county where the decedent was domiciled at the time of death.
 - b. If the decedent was not domiciled in this state, in any county where property of the decedent was located at the time of death.
2. Venue for all subsequent proceedings within the exclusive jurisdiction of the court is in the place where the initial proceeding occurred, unless the initial proceeding has been transferred as provided in section 30.1-02-03 or subsection 3 of this section.
3. If the first proceeding was informal, on application of an interested person and after notice to the proponent in the first proceeding, the court, upon finding that venue is elsewhere, may transfer the proceeding and the file to the other court.
4. For the purpose of aiding determinations concerning location of assets which may be relevant in cases involving nondomiciliaries, a debt, other than one evidenced by investment or commercial paper or other instrument in favor of a nondomiciliary, is located where the debtor resides, or, if the debtor is a person other than an individual, at the place where it has its principal office. Commercial paper, investment paper, and other instruments are located where the instrument is. An interest in property held in trust is located where the trustee may be sued.

30.1-13-02. (3-202) Appointment or testacy proceedings - Conflicting claim of domicile in another state. If conflicting claims as to the domicile of a decedent are made in a formal testacy or appointment proceeding commenced in this state, and in a testacy or appointment proceeding after notice pending at the same time in another state, the court of this state must stay, dismiss, or permit suitable amendment in the proceeding here unless it is determined that the local proceeding was commenced before the proceeding elsewhere. The determination of domicile in the proceeding first commenced must be accepted as determinative in the proceeding in this state.

30.1-13-03. (3-203) Priority among persons seeking appointment as personal representative.

1. Whether the proceedings are formal or informal, persons who are not disqualified have priority for appointment in the following order:
 - a. The person with priority as determined by a probated will including a person nominated by a power conferred in a will.
 - b. The surviving spouse of the decedent who is a devisee of the decedent.
 - c. Other devisees of the decedent.
 - d. The surviving spouse of the decedent.
 - e. Other heirs of the decedent.
 - f. A trust company.

- g. Forty-five days after the death of the decedent, any creditor.
- 2. An objection to an appointment can be made only in formal proceedings. In case of objection the priorities stated in subsection 1 apply, except that:
 - a. If the estate appears to be more than adequate to meet exemptions and costs of administration but inadequate to discharge anticipated unsecured claims, the court, on petition of creditors, may appoint any qualified person; or
 - b. In case of objection to appointment of a person other than one whose priority is determined by will by an heir or devisee appearing to have a substantial interest in the estate, the court may appoint a person who is acceptable to heirs and devisees whose interests in the estate appear to be worth in total more than half of the probable distributable value, or, in default of this accord, any suitable person.
- 3. A person entitled to letters under subdivisions b through e of subsection 1 may nominate a qualified person to act as personal representative. Any person may renounce the person's right to nominate or to an appointment by appropriate writing filed with the court. When two or more persons share a priority, those who do not renounce must concur in nominating another to act for them, or in applying for appointment.
- 4. Conservators of the estates of protected persons, or if there is no conservator, any guardian except a guardian ad litem of a minor or incapacitated person, may exercise the same right to nominate, to object to another's appointment, or to participate in determining the preference of a majority in interest of the heirs and devisees that the protected person or ward would have if qualified for appointment.
- 5. Appointment of one who does not have priority, including priority resulting from renunciation or nomination determined pursuant to this section, may be made only in formal proceedings. Before appointing one without priority, the court must determine that those having priority, although given notice of the proceedings, have failed to request appointment or to nominate another for appointment, and that administration is necessary.
- 6. No person is qualified to serve as a personal representative who is:
 - a. Under the age of eighteen; or
 - b. A person whom the court finds unsuitable in formal proceedings.
- 7. A personal representative appointed by a court of the decedent's domicile has priority over all other persons except where the decedent's will nominates different persons to be personal representative in this state and in the state of domicile. The domiciliary personal representative may nominate another, who shall have the same priority as the domiciliary personal representative.
- 8. This section governs priority for appointment of a successor personal representative but does not apply to the selection of a special administrator.

30.1-13-04. (3-204) Demand for notice of order or filing concerning decedent's estate. Any person desiring notice of any order or filing pertaining to a decedent's estate in which the person has a financial or property interest may file a demand for notice with the court, at any time after the death of the decedent, stating the name of the decedent, the nature of the person's interest in the estate, and the demandant's address or that of the demandant's attorney. The clerk shall mail a copy of the demand to the personal representative, if one has been appointed. After filing of a demand, no order or filing to which the demand relates shall be made or accepted without notice, as prescribed in section 30.1-03-01, to the demandant or the

demandant's attorney. The validity of an order which is issued or filing which is accepted without compliance with this requirement shall not be affected by the error, but the petitioner receiving the order or the person making the filing may be liable for any damage caused by the absence of notice. The requirement of notice arising from a demand under this provision may be waived in writing by the demandant and shall cease upon the termination of the demandant's interest in the estate.